subpart would not be extended to an officer injured while apprehending an individual for a violation of local law where it is discovered during a search of the individual (i.e., after the arrest has been made) that the individual was in violation of Federal law due to illegal possession of a controlled substance. In this situation, even though the individual was in violation of Federal law, the existence of the controlled substance was not a part of the specific criminal activity to which the officer was responding and thus did not play a part in the apprehension. Coverage would be extended in this situation if the officer had been aware of the existence of the substance prior to the arrest being made. To be considered a part of the criminal activity, it would not be necessary for the officer to know the nature of the substance, but only that the officer had reason to believe it was a controlled substance. If later investigation showed that the substance was not in fact a controlled substance, coverage would not be extended since no Federal crime had in fact been committed. Similarly, an officer injured while responding to an alarm of a robbery at a federally insured bank would be entitled to benefits as provided by this subpart. However, coverage would not be extended where the alarm was false since no Federal crime had actually occurred.

(c) Coverage for injuries or death while a law enforcement officer and to have been engaged on that occasion in the lawful prevention of, or lawful attempt to prevent, the commission of a crime against the United States shall not attach unless a Federal crime had been committed or was about to be committed. Whether or not a Federal crime was about to be committed cannot be open to speculation. The threat must be actual and imminent. However, in situations where the officer is detailed by a competent State or local authority to assist a Federal law enforcement authority in the protection of the President of the United States, or any other individual entitled to be provided or actually provided protection by the U.S. Secret Service pursuant to 18 U.S.C. 3056(a), 3 U.S.C. 202–209, and the regulations promulgated pursuant to the latter provisions at 31

CFR 13.1—13.8, coverage will be extended for injury or death sustained in such activity, because the threat of Federal crime in those circumstances is presumed to be always imminent.

(d) No person otherwise eligible to receive a benefit under this subpart because of the disability or death of an eligible officer shall be barred from the receipt of such benefit because the person apprehended or attempted to be apprehended by such officer was then sought for the commission of a crime against a sovereignty other than the United States.

(e) Coverage for members of the U.S. Park Police and those members of the Uniformed Division of the U.S. Secret Service who are covered under the District of Columbia Policemen and Firemen's Retirement and Disability Act is limited to specific activities involving crimes against the United States, and does not include numerous tangential activities of law enforcement, such as reporting for work, changing clothing etc., even though the laws enforced in the job deal solely with crimes against the United States. However, members of the Non-Uniformed Division of the U.S. Secret Service who are covered under the District of Columbia Policemen and Firemen's Retirement and Disability Act are considered to be engaged in the types of activities specified in 5 U.S.C. 8191 (1) through (3), and are covered by the provisions of 5 U.S.C. 8191–8193 during the performance of all official duties.

§ 10.613 Time for filing a claim.

A claim for benefits under the Act must be received by the Office within 5 years after the injury or death. The five-year limitation is maximum and mandatory and is not subject to waiver.

§ 10.614 How to file a notice of injury or death.

(a) A claim for benefits due to the injury or death of an eligible officer shall be made by—

(1) Any eligible officer or survivor of an eligible officer,